

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

PRENTIS RUPERT

PLAINTIFF

v.

CASE NO. 3:15CV00022 BSM

LARRY MILLS et al.

DEFENDANTS

ORDER

Having reviewed the partial recommended disposition (“PRD”) and the objections thereto, and having reviewed the entire record *de novo* the PRD is rejected as to plaintiff Prentis Rupert’s hepatitis C claim and adopted as to all remaining claims.

The PRD improperly granted defendants’ motion for summary judgment on Rupert’s hepatitis C claim against Cox because it incorrectly found that Rupert was treated for hepatitis C. In reaching this conclusion, the PRD relies on Susan Cox’s affidavit and Rupert’s clinical summary although these documents do not show that Rupert was treated for hepatitis C. Cox was aware that Rupert tested positive for hepatitis, but testified that she does not know what treatment he may have been provided. Susan Cox Aff., Ex. A ¶ 12, Doc. No. 28. Further, the only mention of hepatitis C in the clinical summary appears under the heading, “Active Medical Problem,” but nothing shows he was treated for it. Ex. D, Doc. No. 28. Therefore, Rupert’s contention that he was not treated for hepatitis C is sufficient to create a genuine issue of material fact and summary judgment should be denied on that claim.

IT IS THEREFORE ORDERED that:

1 Rupert's motion for summary judgment [Doc. No. 24] is denied.

2 The motion for summary judgment [Doc. No. 27] filed by defendants Cox and Mills is granted on Rupert's deliberate indifference claim with regards to his dental care and that claim is dismissed with prejudice, and denied on Rupert's deliberate indifference claim against Cox with regards to his hepatitis C.

3 Summary judgment [Doc. No. 27] is granted on Rupert's due process claim against Cox and that claim is dismissed with prejudice, and denied on Rupert's due process claim against Mills.

4 The motion for summary judgment [Doc. No. 46] filed by defendants Wendy Kelley and Rory Griffin is granted and Rupert's claims against these defendants are dismissed without prejudice.

5 The clerk is directed to terminate Defendants Kelley and Griffin as party defendants.

DATED this 3rd day of November 2015.


UNITED STATES DISTRICT JUDGE